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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/247/2025

BABUL BORAH
SON OF LATE GHANA BORAH, RESIDENT OF VILLAGE NAPAMUA,
P.O- CHUNGI, DISTRICT- JORHAT, ASSAM, PIN-785616.

VERSUS

1: THE SECRETARY DEPARTMENT OF SCHOOL EDUCATION
GOVT. OF ASSAM, DISPUR, GUWAHATI-06.

2:THE STATE LEVEL SCRUTINY COMMITTEE REPRESENTED BY THE DIRECTOR OF ELEMENTARY EDUCATION KAHILIPARA GHY-19 KAMRUP(M) ASSAM.

3:THE DISTRICT SCRUTINY COMMITTEE JORHAT DIST. REPRESENTED BY THE DEPUTY COMMISSIONER JORHAT DIST.

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
JORHAT DIST.

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
TITABOR DIST. JORHAT.

6:DEVANONDA BARUAH, TUTOR, SCIENCE OFFICE OF THE NAPOMUA ME SCHOOL VILL. NAPOMUA P.O. CHUNGI BLOCK TITABOR DIST. JORHAT ASSAM PIN 785616

7:HIRAMONI BORAH (ERSTWHILE HEAD MASTER)
NAPOMUA ME SCHOOL VILL. NAPOMUA P.O. CHUNGI
BLOCK TITABOR DIST. JORHAT ASSAM PIN 78561

For the Appellant(s) **:** Mr. B.K. Das, Advocate.

For the Respondent(s) **:** Mr. S.K. Talukdar, Standing Counsel, Department of School Education for respondent Nos.1, 2, 4 & 5.

: Mrs. R.B. Bora, Junior Government Advocate, Assam for respondent No.3.
: Mr. R. Phukan, Advocate for respondent No.6.

– B E F O R E –
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

20.02.2026
(Ashutosh Kumar, CJ)

We have heard Mr. B.K. Das, learned Advocate for the appellant; Mr. S.K. Talukdar, learned Standing Counsel, Department of School Education for respondent Nos.1, 2, 4 & 5; Mrs. R.B. Bora, learned Junior Government Advocate, Assam for respondent No.3 and Mr. R. Phukan, learned Advocate for respondent No.6.

By the impugned judgment dated 17.03.2025 passed by a learned Single Judge of this Court in WP(C) No.3285/2021, the case of the appellant/writ petitioner has been rejected on the ground that he had withdrawn the litigation before the Educational Tribunal *(Education Tribunal Case No.2/2020)* at Jorhat on the plea that his dispute with respondent No.6, so far as the provincialization is concerned, has been compounded.

Some facts need to be stated here to appreciate the contention of the appellant/writ petitioner.

The appellant/writ petitioner claims that he is the senior-most Teacher of the School having joined the service on 24.09.1998. The respondent No.6, on the other hand, joined as a Science Teacher only on 13.07.2011, i.e. later than the cut-off date of 31.12.2010 provided under the Assam Education (Provincialisation of Services of Teachers and Re-organisation of Educational Institutions) Act, 2017.

Since the services of the appellant/writ petitioner were not being provincialized, he preferred the afore-noted Educational Tribunal Case No.2/2020 before the Educational Tribunal at Jorhat seeking provincialization of his service. While the afore-noted case was pending before the Tribunal, the State/ respondents took a decision of provincializing the services of the respondent No.6 instead. The appellant/writ petitioner, perhaps, was of the impression that with the provincialization of the service of the respondent No.6, he would be required to agitate the issue; seek annulment of provincialization of the service of the respondent No.6 and pray for provincialization of his service before an appropriate forum, which is the High Court, by way of a writ petition.

Precisely for this reason, the Educational Tribunal Case No.2/2020 was withdrawn. However, the order of withdrawal indicated that the case was being withdrawn because a compromise had been entered into between the appellant/writ petitioner and the respondent No.6.

The learned Single Judge non-suited the appellant/writ petitioner primarily on the ground of his having compounded the issue with the respondent No.6, which he could not have agitated again.

There can be no compromise in a service dispute.

The appellant/writ petitioner could have either abandoned or pursued his claim with all vigour. It was precisely for the reason of pursuing his case that a writ petition was filed.

In our estimation, the learned Single Judge ought to have decided whether amongst the appellant/writ petitioner and the respondent No.6, whose service deserved to be provincialized on priority.

The learned Single Judge, we must state, went on the wordings in the order of withdrawal and did not adjudicate the claim.

For the afore-noted reason, we set aside the judgment impugned in the present appeal and remand the matter to the learned Single Judge (Roster Bench) with a request to adjudicate the issue, viz. whether the services of the appellant/writ petitioner was required to be provincialized before the case of the respondent No.6.

It would be open for the parties to raise all the contentions before the learned Single Judge as and when the case is listed.

Let the writ petition be listed before the Roster Bench preferably on *08.04.2026*.

The appeal stands allowed to the extent indicated above.

JUDGE **CHIEF JUSTICE**

Comparing Assistant